

Remarks

Claims 1-12 have been cancelled from this application. New claims 13-25 represent all claims currently pending in this application.

The Examiner rejected claims 1-4, 6-7, and 10-12 under 35 USC 102(b) as being anticipated by Cordick et al., WO 00/03753 ("Cordick"). Applicants respectfully traverse this rejection.

The Examiner indicated that Cordick discloses a process for treating carpet fibers with a bacteria spore blend to prevent odor. She further noted that the spore blend solution is an aqueous solution of fluorochemical, applied from an aerosol. The Examiner then took Official notice that lower hydrocarbons are conventionally used as propellants for aerosol containers. Based on these teachings and on the Official notice, the Examiner concluded that the limitations of original claims 1-4, 6, 10, and 12 are disclosed by Cordick.

Although neither agreeing nor disagreeing with the Examiner and solely to advance the prosecution of the present application, Applicants have cancelled claims 1-4, 6, 10, and 12 by this amendment.

Claim 13 is directed to a method for treating a carpet fiber or a carpet with a solution of bacteria and binder, wherein the binder is present in an amount from 2% to 4%. Support for this amendment can be found on page 14 of the application. Cordick does not teach the bacteria *in a solution of between 2% to 4% binder* (hydrocarbons, fluorocarbons, or combination thereof). Rather, Cordick teaches that a composition of bacteria in an aqueous solution, preferably with water or saline, can be applied in combination with fluorochemicals. As the percentage of binder in solution is not disclosed by the reference, the reference does not teach each and every element of the claim. Accordingly, a rejection under 35 USC 102 cannot stand.

Additionally, Cordick fails to teach or suggest the specific elements of the present invention and therefore does not render the pending claims obvious. As noted above, Cordick teaches a non-dilute, aqueous solution of fluorochemicals and bacteria for application on carpet fibers for the purpose of controlling odor. Nothing in the disclosure

of Cordick would motivate the ordinary artisan to dilute the solution *to an application solution of between 2% to 4%*.

The reference fails to disclose *a solution* of hydrocarbons in combination with the bacteria. While the Examiner is correct that hydrocarbons are known propellants, nowhere does the reference suggest that hydrocarbons form part of the solution. The Examiner has not shown, and the reference does not teach, that a propellant would naturally combine with the agent it is dispensing.

Even if the reference alludes to the active solutions used in the process claimed herein, the reference is not enabling to practice the claimed process. The reference provides no guidance as to amounts of fluorochemical and/or stain blocker used in the solution; no guidance as to how to dilute a concentrated solution of the active solution; and no guidance as to how to apply the solution so as to achieve an applied concentration on the carpeting. As the reference fails to teach how to make and use the solution, it cannot be considered to be enabling.

Dependant claims 14-22 are also considered patentable for the various limitations contained therein.

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Applicant: PETERS, Frank et al.

This response represents a complete response to the Office Action dated September 2, 2004. If the Examiner has any questions, she is urged to contact the undersigned prior to issuance of a second Office Action so that all issues can be resolved and the prosecution of this application can be expedited.

Respectfully submitted,

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